

## Agricultural Marketing Service, USDA

## § 900.81

paper expires on a Saturday, Sunday, or legal public holiday, the time allowed for filing the document or paper shall be extended to include the following business day.

[25 FR 5907, June 28, 1960, as amended at 67 FR 10830, Mar. 11, 2002]

### § 900.70 Applications for interim relief.

(a) *Filing the application.* A person who has filed a petition pursuant to § 900.52 may by separate application filed with the hearing clerk apply to the Secretary for an order postponing the effective date of, or suspending the application of, the marketing order or any provision thereof, or any obligation imposed in connection therewith, pending final determination of the proceeding.

(b) *Contents of the application.* The application shall contain a statement of the facts upon which the relief is requested, including any facts showing irreparable injury. The application must be signed and sworn to by the petitioner and any facts alleged therein which are not within his personal knowledge shall be supported by affidavits of a person or persons having personal knowledge of such facts or by proper documentary evidence thereof.

(c) *Answer to application.* Immediately upon receipt of the application, the hearing clerk shall transmit a copy thereof, together with all supporting papers, to the Administrator, who shall, within 20 days, or such other time fixed by the Secretary, after the filing of the application file an answer thereto with the hearing clerk.

(d) *Contents of answer.* The answer shall contain a statement of the objections, if any, of the Administrator to the application for interim relief, and may be supported by affidavits and documentary evidence.

(e) *Transmittal to Secretary.* Upon receiving the answer of the Administrator or upon the expiration of the time for filing the answer, the hearing clerk shall transmit to the Secretary for his decision all papers filed in connection with the application.

(f) *Hearing and oral argument.* The Secretary may, in his discretion, permit oral argument or the taking of testimony in connection with such application. However, unless written re-

quest therefor is filed with the hearing clerk prior to the transmittal of the papers to the Secretary, the parties shall be deemed to have waived oral argument and the taking of testimony.

(g) *Decision by Secretary.* The Secretary may grant or deny the application. Any action taken by the Secretary shall be in the form of an order filed with the hearing clerk and shall contain a brief statement of the reasons for the action taken. The hearing clerk shall cause copies of the order to be served upon the parties.

[25 FR 5907, June 28, 1960, as amended at 67 FR 10830, Mar. 11, 2002]

### § 900.71 Hearing before Secretary.

The Secretary may act in the place and stead of a judge in any proceeding hereunder. When he so acts the hearing clerk shall transmit the record to the Secretary at the expiration of the period provided for the filing of proposed findings of fact, conclusions and orders, and the Secretary shall thereupon, after due consideration of the record, issue his final order in the proceeding: *Provided*, That he may issue a tentative order in which event the parties shall be afforded an opportunity to file exceptions before the issuance of the final order.

## Subpart—Supplemental Rules of Practice for Marketing Orders, Marketing Agreements, and Requirements Issued Pursuant to 7 U.S.C. 608b(b) and 7 U.S.C. 608e Covering Fruits, Vegetables, and Nuts

AUTHORITY: 7 U.S.C. 601-674.

SOURCE: 61 FR 20717, May 8, 1996, unless otherwise noted.

### § 900.80 Words in the singular form.

Words in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

### § 900.81 Definitions.

As used in this subpart, the terms as defined in the act shall apply with equal force and effect. In addition, unless the context otherwise requires: